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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,452	10/07/2003	David L. Anderson	27644.17	4504
32300	7590	04/19/2006	EXAMINER	
BRIGGS AND MORGAN P.A. 2200 IDS CENTER 80 SOUTH 8TH ST MINNEAPOLIS, MN 55402				ADAMS, GREGORY W
ART UNIT		PAPER NUMBER		
		3652		

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/680,452	ANDERSON ET AL.
	Examiner	Art Unit
	Gregory W. Adams	3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 March 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-27,31,32 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 20-27,31,32 and 37-40 is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Amendment

The finality of the previous Office action is hereby withdrawn pursuant to 37 CFR 1.129(a). Applicant's first submission after final filed on March 16, 2006 has been entered. The indicated allowability of claims 1-19 is withdrawn in view of the newly discovered reference(s) to Olson (US 1,766,142).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 & 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katoch (US 6,135,705) (previously cited) in view of Olson (US 1,766,142).

With respect to claim 1, Katoch discloses a first and second conveyor 15, stacker conveyor 17, moving stacking shelves 37, shifting mechanism 13 (C3/L6-12 & 62-65) and stack unloader, and does not disclose a shifting mechanism that moves a conveyor adjacent one of moving stacker shelves. Olson discloses a stacker conveyor 10 and shifting mechanism 25-28 that track moving stacker shelves receiving items from a stacker conveyor. Olson teaches tracking for automatically and positively transfer from one conveyor to another in a smooth and easy manner, to prevent unnecessary jarring of the items being conveyed. P1/L40-45. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the stacker

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conveyor of Katoch to include a shifting mechanism, as per the teachings of Olson, to prevent jarring to items.

With respect to claim 2-3, Katoch discloses two belts spaced apart.

With respect to claim 4, Katoch discloses spacing is adjustable.

With respect to claim 5-6, Katoch discloses a stacker conveyor comprising a pair of spaced apart belts wherein spacing is adjustable.

With respect to claim 7, Katoch discloses a stacker conveyor that adjusts for multiple sizes and pack patterns.

With respect to claim 8, Katoch discloses an anti-scuffing mechanism.

With respect to claim 9, Katoch discloses stacker shelves that retract.

With respect to claim 14, Katoch discloses that the second conveyor runs faster than the first conveyor.

With respect to claim 15, Katoch discloses spaced apart belts.

With respect to claim 16-18, Katoch discloses an overflow mechanism (e.g. speeds of the device are controlled accordingly to relieve overflow, i.e. the device can be appropriately slowed down and sped up; C3/L55).

Claim 10-13 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katoch (US 6,135,705) (previously cited) in view of Olson (US 1,766,142) and Dimion (US 5,964,570) (previously cited).

Katoch discloses a pair of space apart belts 13, 13, 17, 17, and a mechanism 11 to separate the spaced apart belts and a mechanism 32 to separate the stacker shelves, and does not disclose a jam clearance mechanism, clean-out conveyor and

motor. Dimion teaches a jam clearance mechanism, clean-out conveyor and motor for the purpose of providing for a means to clear jams (C7/L30-31+) for even flow and precision stacking. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Katoch's apparatus to include jam clearance, as per the teachings of Dimion, to prevent jamming during stacking for precision stacks.

Allowable Subject Matter

Claims 20-27, 31-32 & 37-40 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GWA

James Keenan
JAMES W. KEENAN
PRIMARY EXAMINER